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HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 40 OF THE COVENANT**

**DENMARK**

**Information received from Denmark on the implementation of the concluding  
observations of the Human Rights Committee  
(CCPR/C/DNK/CO/5)**

[4 November 2009]

1. In its concluding observations on the examination of Denmark's fifth periodic report (CCPR/C/DNK/CO/5, para. 15) the Human Rights Committee requests Denmark to provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 8 (on violence against women) and 11 (on long-term solitary confinement during pre-trial detention) of that report.

2. In response, the Government of Denmark is pleased to forward the following information.

3. Regarding the recommendations made in paragraph 8 of its concluding observations, the Committee notes in paragraph 4, as a positive aspect, the initiatives taken by Denmark to combat violence against women, for instance the National Action Plan 2005-2008.

4. The multi-faceted approach in this action plan and in the former action plan covering 2002-2004 will continue, as 35 million Danish kroner has been allocated to a new National Strategy to combat violence in intimate relations 2009-2012. This strategy is currently being developed and the two main ambitions are to fully integrate the specific initiatives on partner violence in the existing support system and to improve the prevention at all levels of partner violence. The national strategy will ensure a continued focus on this problem, including among the general public.

5. For further and more detailed information on the combat of violence against women, please refer to the seventh periodic report of Denmark to the Committee on the Elimination of Discrimination against Women (CEDAW/C/DEN/7) and the replies to list of issues in connection to this report.

6. Regarding the recommendations made in paragraph 11 of the concluding observations, the Government is very keen on reducing the number and length of instances of solitary confinement during pre-trial detention. In order to ensure this, the Administration of Justice Act was amended in 2006. 7. The Government also wishes to state that there are criminal cases where it is necessary to exclude a person held in pre-trial detention from association with other detainees. This is particularly so in criminal cases with professional, strongly organized elements and international connections.

8. Nevertheless, under Danish law the criteria for excluding a person held in pre-trial detention from association with other detainees are very strict. It is a requirement that the purpose cannot be achieved by less burdensome restrictions, including placing the detainee in another detention centre away from other specific detainees or in some other way excluding the detainee from association with such other detainees. It is also a requirement that the exclusion from association with other detainees – taking into account, where relevant, the particular burden which the exclusion may be due to the detainee's youth, physical or mental vulnerability or other personal circumstances – is not disproportionate in comparison with the importance of the case and the penalty which may be expected if the detainee is found guilty. It is also a requirement that the investigation is conducted with the particular speed which is necessary when a detainee is excluded from association with other detainees, including using the possibilities of securing evidence by having a witness testify before a court prior to the trial. If the detainee is under the age of 18, it is an additional requirement that very exceptional circumstances make exclusion from association with other detainees necessary.

9. The Government points out that “solitary confinement” means exclusion from association with other detainees. It does not mean that the detainee is “isolated” in other respects. On the contrary, personnel of the Prison and Probation Service must be particularly attentive as regards the need of such detainees for more extensive contact with personnel, visits by a doctor, including a psychiatrist, more extensive access to visits, etc.

10. Under Danish law, exclusion from association of persons held in pre-trial detention (hereafter referred to as “solitary confinement”) in order to prevent interference with the investigation may be imposed by court order for an initial period not exceeding two weeks. The court may by subsequent orders extend the solitary confinement for periods not exceeding four weeks (two weeks if the detainee is under the age of 18) at a time. Consequently, any solitary confinement is subject to regular judicial review at very short intervals.

11. Furthermore, the Administration of Justice Act also provides for maximum periods of solitary confinement.

12. In the most serious cases (punishable by six years’ imprisonment or more), the maximum period of solitary confinement is eight weeks, which may be extended only in exceptional circumstances (four weeks if the detainee is under the age of 18, and this may only be extended in very exceptional circumstances and provided that the investigation concerns Parts 12 or 13 of the Criminal Code (terrorism, etc.)). Before the public prosecutor requests an extension of solitary confinement beyond eight weeks (four weeks if the detainee is under the age of 18), the Director of Public Prosecutions must endorse the request, and the request may not be granted by the court in the absence of such endorsement.

13. In other cases the maximum period of solitary confinement is two or four weeks which may not be extended.

14. In conclusion, there are extensive guarantees to ensure that solitary confinement during pre-trial detention is used only in exceptional circumstances and for a limited period of time.

15. As described in paragraphs 247-253 of Denmark’s fifth periodic report, the Administration of Justice Act was amended in December 2006 with a view to reducing the number and lengths of instances of solitary confinement. The amendment entered into force on 1 January 2007.

16. In order to ensure that the Prosecution Service observes these new rules concerning solitary confinement, the Director of Public Prosecutions has sent out information and issued guidelines regarding the new rules.

17. Thus, in December 2006, prior to the entering into force of the rules, the Director of Public Prosecutions sent out a memo to the State Prosecutors and Police Commissioners accounting for the changes in the Administration of Justice Act in relation to the use of solitary confinement, including the new rules concerning time limits, the new requirement that a request for continuous solitary confinement must be put to the Court in writing and must entail the grounds for the request, the requirement that the Director of Public Prosecution must approve a request for continuous solitary confinement beyond eight weeks and about the enhanced possibility to secure evidence before the main proceedings.

18. In July 2008, the Director of Public Prosecutions sent out instructions on how to apply for the approval of the Director in cases concerning the use of solitary confinement beyond eight weeks. It follows from these instructions that the request for approval must entail information about the specific risk that the person in question will hamper the investigation and about the reasons to believe that such a risk is present.

19. In 2008 the Director of Public Prosecutions approved the Police Commissioners' recommendations about the use of solitary confinement beyond eight weeks in three cases (concerning four persons). In 2009 to date the Director of Public Prosecutions approved recommendations from the Police Commissioners in four cases (concerning 11 persons).

20. In all the above-mentioned cases the Court has accepted the Prosecutions Service's request for the use of solitary confinement beyond eight weeks.

21. In order to keep the application in practice of solitary confinement under constant review, the Director of Public Prosecutions submits a yearly report to the Ministry of Justice on the number and lengths of instances of solitary confinement during pre-trial detention. The Ministry of Justice forwards the report to Parliament's Legal Affairs Committee.

22. The first annual report by the Director on the number and lengths of instances of solitary confinement during pre-trial detention after this amendment, covering the year 2007, was submitted in the fall of 2008. The main conclusions of the report may be summarized as follows:

- In 2007 the number of instances of solitary confinement was 273. This was a reduction by 42.6 per cent in comparison with 2006 and a reduction by 50.7 per cent in comparison with 2001.
- In 2007 the proportion of detainees held in pre-trial detention who were placed in solitary confinement was reduced to a very significant degree. In 2006, 8 per cent of persons held in pre-trial detention was at some point during their pre-trial detention subject to an order for solitary confinement; in 2007 that figure dropped to 4.6 per cent.
- The average length of solitary confinement in the period 2001 to 2006 was 28, 30, 37, 36, 33 and 29 days, respectively. The slow but steady reduction registered since 2004 continued in 2007, where the average length of solitary confinement was 27 days.
- From 2006 to 2007 the total number of days of solitary confinement was reduced by 48 per cent, from 13,838 to 7,189 days.
- The number of instances of solitary confinement exceeding eight weeks has varied between 2001 and 2006, during which period the number of such cases has been between 57 and 158 per year. In 2007 the number of such cases was reduced very significantly from 57 in 2006 to 19 instances of solitary confinement exceeding 8 weeks.
- In 2007 five persons under the age of 18 were subject to solitary confinement. The solitary confinement lasted between 2 and 14 days. Since 2001 between one and six persons under the age of 18 per year have been subjected to solitary confinement, and the length of solitary confinement in those cases has varied between 1 and 56 days. Since 2006 no person under the age of 18 has been subjected to solitary confinement for more than 14 days.

23. The next report of the Director of Public Prosecutions is expected to be submitted before the end of the year.

24. The Government finds that the report covering the year 2007 by the Director of Public Prosecutions shows that the considerable efforts undertaken by the Government to reduce the use of solitary confinement during pre-trial detention have been successful. In particular, the legislative amendment in December 2006 and the subsequent implementation by the police and prosecution service seem to have resulted in a very significant reduction in the number of instances of solitary confinement, the total number of days of solitary confinement and also in the number of instances of solitary confinement exceeding eight weeks.

25. As regards persons under the age of 18, it is noteworthy that the number of cases per year has not exceeded six since 2001, and that the period of solitary confinement in those cases has not exceeded 14 days since 2006.

26. The Government will continue to keep the use of solitary confinement under close review, in particular on the basis of the yearly reports submitted by the Director of Public Prosecutions.

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